

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

SEP 4 1998

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MICHAEL KEITH HUFFMAN,

Defendant-Appellant.

No. 98-3204
(D.C. No. 98-CR-40068-2)
(D. Kan.)

ORDER AND JUDGMENT*

Before **BRORBY**, **LUCERO**, and **MURPHY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Defendant Michael Keith Huffman appeals the district court's order directing that he not be released on bond prior to trial. We affirm.

We review de novo the district court's determination of mixed questions of law and fact concerning the detention decision, while accepting its findings of historical fact in support of the decision, unless they are clearly erroneous. See United States v. Kinslow, 105 F.3d 555, 557 (10th Cir. 1997).

Detention of a defendant pending trial is governed by 18 U.S.C. § 3142. The district court found that a serious risk existed that the defendant might flee prior to trial. It also found that no condition or combination of conditions would reasonably assure defendant's appearance at trial and that defendant posed a risk to the safety of the community if he were released pending trial.

In determining whether any condition or combination of conditions would reasonably assure defendant's appearance and the safety of the community, the court must consider the factors contained in § 3142(g). Having reviewed the record, we conclude that the district court correctly determined that these factors weigh decisively against defendant.

Defendant is charged with four counts involving the manufacture and distribution of methamphetamine. The evidence concerning his participation in these offenses is strong and includes his admission that he was involved to some extent in these offenses. Defendant also has a history of probation violation, an

arrest for trafficking contraband into a correctional facility, attempted escape, and has two outstanding warrants in Oregon and Washington state. He has absconded from court supervision. Defendant had been planning to move to California prior to issuance of the indictment. Further, his fiancée, who said she would be responsible for his continuing presence, testified that she was unaware he was engaging in the charged illegal activities in her house.

Based on our review of the briefs on appeal and defendant's appendix, we conclude that the district court's factual findings underlying its detention order are not clearly erroneous. The district court did not err in finding that defendant posed a serious risk of fleeing and that no condition or combination of conditions would reasonably assure his appearance if he were released. Accordingly, the order of the United States District Court for the District of Kansas detaining defendant pending trial is AFFIRMED.

ENTERED FOR THE COURT
PER CURIAM